

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

DAVID WALKER

V

) No. 04-0394

PEOPLES GAS LIGHT AND COKE COMPANY

Complaint as to billing and charges  
in Chicago, Illinois

Chicago, Illinois

June 15, 2005

Met pursuant to notice at 10:00 a.m.

BEFORE:

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES:

MR. DAVID WALKER,  
5701 South Wolcott,  
Chicago, Illinois 60636,  
appeared pro se;

McGUIRE WOODS, LLP, by  
MS. GRETA G. WEATHERSBY,  
77 West Wacker Drive,  
Chicago, Illinois 60601,  
appeared for the Respondent.

SULLIVAN REPORTING COMPANY, by  
Teresann B. Giorgi, CSR

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I N D E X

<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	<u>Re- dir.</u>	<u>Re- crx.</u>	<u>By Examiner</u>
David Walker		14			5 36
Brian Schmolt	43	66	74		60
(recalled)			89		88

E X H I B I T S

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1 JUDGE RILEY: Pursuant to the direction of the  
2 Illinois Commerce Commission, I call Docket 04-0394.  
3 This is a complaint by David Walker versus Peoples  
4 Gas Light and Coke Company as to billing and charges  
5 in Chicago, Illinois.

6 This matter was originally marked  
7 heard and taken on November 9, 2004. The matter  
8 was presented to the Commission for disposition on  
9 May 4, 2005, at which time the Commission determined  
10 to reopen the record for the purpose of obtaining  
11 additional evidence and that is why we are here this  
12 morning.

13 Mr. Walker, you have reappeared here  
14 this morning and you are still appearing without  
15 counsel, is that correct?

16 MR. WALKER: That's correct.

17 JUDGE RILEY: And would you state your name and  
18 address for the record, please.

19 MR. WALKER: My name is Walker -- last name  
20 Walker, first name David, address 5701 South  
21 Wolcott.

22 JUDGE RILEY: And that's in Chicago?

1           MR. WALKER:   Chicago, Illinois 60636.

2           JUDGE RILEY:   Thank you.

3                         And for Peoples Gas.

4           MS. WEATHERSBY:   Greta Weathersby with the law  
5 firm of McGuire Woods, 77 West Wacker, Chicago,  
6 Illinois, representing the Peoples Gas Light and  
7 Coke Company.

8           JUDGE RILEY:   As I look through the summary of  
9 the Commission meeting on May 10, where they  
10 determined to reopen this record for additional  
11 evidence, there were a number of concerns that the  
12 Commission raised, chief among those was the matter  
13 of the service having been restored, Peoples Gas  
14 determining that the service had been restored and  
15 the contradiction in testimony.

16                         Mr. Walker, you had stated at the  
17 original hearing that the -- first of all let me put  
18 you under oath.

19   (Witness sworn.)

20

21

22

1                                 DAVID WALKER,  
2   called as a witness herein, and after having been  
3   first duly sworn, was examined and testified as  
4   follows:

5                                 EXAMINATION

6                                 BY

7                                 JUDGE RILEY:

8         Q       You had testified at hearing that because  
9   you had made a payment through the CEDA program,  
10   that Peoples Gas had returned to the residence and  
11   had restored your gas service, is that correct?

12        A       Yes.   During that time we were speaking  
13   about how they restored the service there and there  
14   had been some points confused about the service  
15   being restored.   At one time you wanted to know who  
16   turned the gas on, which was a (unintelligible) part  
17   on her statement there, but a person represent  
18   Peoples Gas, identification, restored the service at  
19   that time and point.

20        Q       All right.   Do you remember when that  
21   service was restored?

22        A       The exact date, no.   I do not have the

1 exact date.

2 Q Do you remember when the service had been  
3 terminated to begin with?

4 A No, not exact date.

5 Q You had originally testified that your  
6 service had been disconnected sometime in November,  
7 2001, but the Respondent sent an employee to your  
8 residence to restore the service after you had  
9 qualified for a grant from the Low Income Housing  
10 Energy Assistance Program, which, I guess, is CEDA,  
11 and you do not recall on what date that your service  
12 had been restored, is that still your testimony?

13 A The exact date, no. I don't have the exact  
14 date. All records and stuff, Gas has records of  
15 what day restored, what day was turned off,  
16 terminated, and what day it restored. The  
17 problem --

18 Q I'm sorry, I didn't understand what you  
19 just said.

20 A They have exact records.

21 Q Peoples Gas has exact records.

22 A Yeah, they should have exact records.

1 Sometimes they're aderate (sic), sometimes they be  
2 aderate, you know, I'm not sure.

3 THE REPORTER: Sometimes what?

4 THE WITNESS: Aderate, maybe sure, not sure,  
5 aderate.

6 JUDGE RILEY: We can't understand that word.

7 THE WITNESS: Aderate.

8 THE REPORTER: "Aderate"?

9 THE WITNESS: Yeah, correct. Correspondence  
10 correct, you know. Everything done in secret order.

11 JUDGE RILEY: Okay.

12 Q Do you remember what that individual did to  
13 restore the service?

14 A Oh, he just turned on back on the outside,  
15 where he turned it off, the outside device in the  
16 ground.

17 Q I believe at the original hearing they said  
18 it was something called a B box.

19 A You have a B box inside on the meter, small  
20 one, you know, detects the amount of usage that  
21 indicates flow in, in the gas --

22 Q Okay.

1       A       -- what you call meter reader and you have  
2 a little device there where they can turn it off.  
3 But a lot of times they turn it on and off on the  
4 streets, on the outside streets. The last time they  
5 turned it off was on the outside streets.

6       Q       Okay. Whatever this thing is, it's on the  
7 outside of the house?

8       A       That's right.

9       Q       And was it underground?

10      A       I believe it's underground. Has to be.

11      Q       Now, did they dig? Did they dig up the  
12 yard to get to it?

13      A       I think it's something like a little device  
14 on the outside and they take a long device and they  
15 go turn something, I'm not sure.

16      Q       So, they didn't have to dig up the yard or  
17 anything like that.

18      A       No.

19      Q       But, you're absolutely certain that this  
20 was an authorized representative from Peoples Gas.

21      A       Yes; yes. Because after I discussed  
22 those hearings and some facts with the -- one of the

1 representatives here, one of counsels of Peoples  
2 Gas, they restored the service. He let me know what  
3 day and how soon. Because when I left and appeared  
4 here, the service was off. And when I talked with  
5 the gentleman that was here, before the lady and  
6 counsel representative, he had restored the service  
7 and I got it back. By the time I arrived back, the  
8 service was restored.

9 Q And that was after the hearing here?

10 A Not here, no. That's on the record.

11 Q Okay.

12 A That was series of events.

13 Q Right.

14 How long was your service disconnected  
15 before he was reconnected?

16 A Oh, wow, it was disconnected, like, for --  
17 could have been, maybe, a week, maybe a day or two,  
18 something like that. I can't be exact.

19 Q Okay. So, it was only off for a couple of  
20 days.

21 A Maybe less than a day. Last time restored,  
22 less than a day.

1           Q       Now, you testified originally that service  
2 had been shut off sometime in November, 2001. So --

3           A       Oh, yeah, during that time --

4           Q       -- was it still November --

5           A       -- during that time it took only a day  
6 because of the winter months, took them a day.  
7 Within that time -- within that day period, 24  
8 hours, within 24 hours.

9           Q       And this is the result of you having made a  
10 CEDA payment, or CEDA making a payment on your  
11 behalf?

12          A       Well, you know, all I did was applied for  
13 the CEDA payment and I talked with counsel here, and  
14 I talked with personnel there and they decided to  
15 restore the service. When I applied for it, as soon  
16 as they submit money to the account, and they  
17 restored the service.

18          Q       And you're saying that the actual service,  
19 that had been shut off in November of 2001, was only  
20 shut off for a day or two?

21          A       Could have been just a day. Yes. In  
22 November, yes, a day.

1       Q       So, you had heat all winter long, is that  
2 correct?

3       A       Well -- yes, it is. Yes.

4       Q       So, that was November, 2001, all the way  
5 through the winter of 2002.

6       A       Yes.

7       Q       Let me go back to this one more time.  
8 You're absolutely certain that it was a Peoples Gas  
9 representative --

10      A       Yes.

11      Q       -- who physically restored your service.

12      A       Yes, who restored my service.

13                   Let me remind you that most of these  
14 sites that were opened and I was active in business  
15 with, making payments with, are now closed now. So,  
16 the personnel has changed, everything has been  
17 changed since then, during the time that I was, you  
18 know, busy talking with those people, has been  
19 changed. There are services that normally pay, that  
20 are closed down. So, what you have an option is,  
21 you do it by banking or either you can mail in a  
22 statement down here. I'm not sure of the purpose of

1 they making these changes now, what the affect, but  
2 they are doing it now.

3 MS. WEATHERSBY: Objection, relevance.

4 JUDGE RILEY: Okay. For right now I don't have  
5 any further questions for Mr. Walker.

6 Counsel, do you want to cross-examine  
7 him?

8 MS. WEATHERSBY: Well, I'll quickly  
9 cross-examine him.

10 JUDGE RILEY: Please proceed.

11 MS. WEATHERSBY: I wanted to make a brief  
12 opening, make sure that my motion relative to filing  
13 post record data would be accepted. I sent it in --

14 JUDGE RILEY: Right, I understand that.

15 MS. WEATHERSBY: We do have some additional  
16 exhibits. Because it was unclear from the  
17 Commission's statement whether this was a total  
18 reopening, if they're looking at certain things. I  
19 wasn't sure what the procedure would be this  
20 morning.

21 JUDGE RILEY: I am treating this as a reopening  
22 for whatever evidence we need to find out exactly

1 what happened to make the record clearer.

2 MS. WEATHERSBY: Sure.

3 JUDGE RILEY: And as far as your motion is  
4 concerned, what I was going to do, rather than just  
5 grant a blanket grant or denial, we'll simply wait  
6 until we get into the substance of your case.

7 MS. WEATHERSBY: Sure.

8 JUDGE RILEY: And, then, whatever exhibits you  
9 have, you can offer.

10 MS. WEATHERSBY: No problem.

11 With respect to the testimony that was  
12 just presented then, I will limit my cross to that,  
13 because we have the whole record before, and I'm  
14 just not sure whether I should be going back to that  
15 record, or do I get to reopen and cross on any  
16 matters that are properly subject to this docket?

17 JUDGE RILEY: As I said, what we are here for is  
18 to clarify the entire record.

19 MS. WEATHERSBY: Sounds good.

20 JUDGE RILEY: So, it's the entire record, is  
21 subject to cross-examination.

22 MS. WEATHERSBY: Wonderful.

1 JUDGE RILEY: I've got to find out what,  
2 exactly, happened here.

3 MS. WEATHERSBY: Sure. Okay.

4 CROSS EXAMINATION

5 BY

6 MS. WEATHERSBY:

7 Q So, then, Mr. Walker, good morning, Greta  
8 Weathersby, I'm representing Peoples Gas and I have  
9 a few questions for you relative to your account.

10 Now, you've just admitted that you  
11 live at 5701 South Wolcott and that would be the  
12 front apartment, correct?

13 A Yes.

14 Q Now, you filed your complaint with --  
15 against Peoples Gas in May of 2004, correct?

16 A Yes, that continued from previous  
17 discussions -- from previous filings with Peoples  
18 Gas with the ICC, that's one of the complaints, yes.  
19 That's one of the --

20 Q The complaint that's in question, though,  
21 today, 04-0394 --

22 A Yes.

1 Q -- was filed on May, 2004.

2 A Okay.

3 Q We're not going to address other complaints  
4 because if we were, then, I would have to have the  
5 Commission make a ruling that this complaint was,  
6 you know, heard and taken improperly because it was  
7 in less than the time period to have your matter  
8 reheard. So, we're going to speak to this 04-0394,  
9 dated May 12th, 2004.

10 Now, on direct you indicated that you  
11 had heat all winter long. So, your complaint was  
12 filed in May of 2004, and would it be fair to say,  
13 then, that you had heat during the period after  
14 11-19-01 to the present?

15 A I have had service, but there has been some  
16 disconnections.

17 Q So, you're saying --

18 A During that time frame there's been  
19 disconnections.

20 Q Okay. Now, earlier you stated that your  
21 service was disconnected for one day, is that  
22 correct?

1       A       Well -- yes, during the time of '02, '03,  
2 and, finally going to 2002 (sic), during the hearing  
3 process that was here, and the service was off and I  
4 explained it to the counselor that was here, and he  
5 restored the services as soon as -- before I can  
6 return back home.

7       Q       Let's back up for a moment, Mr. Walker.

8                       Back in November of 2001, your service  
9 was disconnected by Peoples Gas, correct?

10      A       That's correct.

11      Q       And at that time you had a past due balance  
12 of, approximately, \$258, more or less, correct?

13      A       Could have been.

14      Q       Okay. But, you had a past due balance that  
15 was unpaid.

16      A       Yes.

17      Q       And as a result, your account was  
18 disconnected --

19      A       That's where they were back and forth to  
20 reinstate the services.

21      Q       No, no. I said at the time your account  
22 was disconnected, it was past due, correct?

1           A       Yeah.

2           Q       Okay.  You owed Peoples Gas money in  
3 November of 2001.

4           A       (No response.)

5           Q       All right.  Great.

6                   What I'd like to do, then, in terms of  
7 reopening this record is, at this time, let's take a  
8 look at our supplemental exhibits, because I think  
9 we need to refer to the transcript in order to make  
10 clear the numbers that we're talking, because this  
11 will become a math issue.

12                   So, at this time, I will tender to  
13 Mr. Walker this supplemental exhibit, which I, also,  
14 mailed to your home.  I'll tender it to the referee.  
15 I'll tender a copy to my witness, as well  
16 (indicating).

17                   And I will draw everyone's attention  
18 to the first exhibit, Exhibit A, Mr. Walker, it's a  
19 transcript, and, specifically, I'm looking at  
20 Page 1, Line 13.

21           JUDGE RILEY:  All right, let me find that.

22           MS. WEATHERSBY:  It's the first document that is

1 turned, and you open it up.

2 JUDGE RILEY: All right.

3 MS. WEATHERSBY: Q So, Mr. Walker, moving,  
4 then, to Line 13 -- Exhibit A, Page 1, Line 13, that  
5 shows the month of November, 2001. And as you move  
6 over into the final column under Account Due, that  
7 shows that, approximately, \$693 was due at that  
8 time, is that correct, is that what the transcript  
9 shows?

10 A (Unintelligible.)

11 JUDGE RILEY: Mr. Walker, you have to speak up.

12 THE WITNESS: That's what I see on the  
13 transcript.

14 MS. WEATHERSBY: Q So, now, after November 1st,  
15 2001, your gas service was disconnected, correct?  
16 Did you pay Peoples Gas the \$693.51 on December 1st?

17 A No, I did not.

18 Q Did you pay Peoples Gas the \$693 on the  
19 subsequent month?

20 A No, I didn't. All I did was paid so much  
21 on the subsequent -- the following month was what?

22 Q My question is, did you ever pay that past

1 due balance to Peoples Gas?

2 A No, I did not pay the past due balance.

3 Q Now, Mr. Walker, this is my next question,  
4 according to Peoples Gas' records, the gas service  
5 was disconnected on November, 2001. After that  
6 time, between November, 2001, and July 2nd, did you  
7 receive any gas bills in your name?

8 A What year?

9 Q Right after your gas was turned off,  
10 December, 2001, to July of '02.

11 A Yes, I did receive gas bills. Yes.

12 Q You received gas bills in your name?

13 A '02, yes, I should receive gas bills --

14 Q No, I'm saying in December of '01, when the  
15 company felt that your account was off, did you  
16 receive gas bills in your name?

17 A I did receive bills in my name. That's why  
18 I raised some issues about that and contacted those  
19 people there, once I received the bill --

20 Q Okay. Mr. Walker, I would like to draw  
21 your attention to the original transcript records  
22 because, in fact, the gas bills were listed in the

1 name of Occupant, were they not, during that period?

2 A Well, as he said, he wasn't sure --

3 Q No, no, I have the bills --

4 A -- the other person -- I have received  
5 notice from Gas, not actual current balance.

6 Q Okay. Mr. Walker, I want to just ask you a  
7 question and, then, have you answer that question.

8 After November 2001, did you receive  
9 any gas bills that were addressed in your name or  
10 were they addressed to Occupant?

11 A I have some notes --

12 JUDGE RILEY: I'm sorry. We can't understand  
13 you, Mr. Walker.

14 THE WITNESS: I'm trying to see what it says  
15 (indicating). Well, I see no bill here that says  
16 Occupant.

17 MS. WEATHERSBY: Okay. Fine. Thank you.

18 Q Now, I would like to move on, Mr. Walker.

19 But, you stated previously that during  
20 this time of November, 2001, or let's even move  
21 forward to the subsequent month, December, 2001,  
22 through July of '02, you continued to have gas

1 service during that entire time, correct?

2 A I did not move, and I notified Gas that I  
3 was occupying the place there the present time until  
4 the present moment now.

5 JUDGE RILEY: All right. I'm going to interrupt  
6 right here.

7 Mr. Walker, your testimony was that  
8 you did or did not receive bills in your name?

9 THE WITNESS: I received bills in my name, sir.

10 JUDGE RILEY: That was between December, '01 and  
11 July, '02.

12 THE WITNESS: '02?

13 JUDGE RILEY: And do you have bills in your name  
14 for that period of time?

15 THE WITNESS: Yes, I have bills.

16 JUDGE RILEY: Let me see one.

17 THE WITNESS: Here, this is what you talking  
18 about, Occupant, here. This is what you're talking  
19 about (indicating).

20 JUDGE RILEY: What she's saying -- what counsel  
21 is asking you is whether the bill was in your name  
22 or was it in the name of Occupant?

1 THE WITNESS: 2001. All the rest of the bills  
2 are in my name.

3 JUDGE RILEY: All right. Let me see one that's  
4 in your name after December, '01.

5 THE WITNESS: (Indicating.)

6 JUDGE RILEY: All right. This is July 29, 2002.

7 THE WITNESS: These are '02. I don't have '01.

8 MS. WEATHERSBY: I can proceed.

9 THE WITNESS: One says Occupant.

10 MS. WEATHERSBY: Q Now, between the time period  
11 of -- up through 2001 -- between the time period --  
12 up through 2001, you received bills in your name,  
13 David Walker, and this was the account that was  
14 terminated in November, 2001?

15 A 2001?

16 Q That's when your gas was disconnected.

17 A When it's disconnected, I received bills  
18 with my name.

19 Occupant --

20 Q Mr. Walker, I'm going to ask the question,  
21 if you don't mind. And if you could just answer  
22 that question, so we can make the record a little

1 clearer.

2                   So, up through 2001, you received  
3 bills in your name and that account was disconnected  
4 by Peoples Gas in November, is that correct?

5       A       I received a bill. I don't know whether  
6 it's Occupant or if it was in my name.

7       JUDGE RILEY: Now, Mr. Walker, you're not  
8 answering the question.

9       THE WITNESS: No, I received a bill, sir -- a  
10 notice.

11       JUDGE RILEY: You have to answer the question.

12       THE WITNESS: If it's in my name or not, I'm not  
13 sure.

14       JUDGE RILEY: Okay. Up to November, 2001, up to  
15 that point you received bills in your name.

16       THE WITNESS: Yes.

17       JUDGE RILEY: After November, 2001, when your  
18 gas was disconnected, did you receive bills in your  
19 name?

20       THE WITNESS: Yes. Yes. Yes.

21       MS. WEATHERSBY: All right, Mr. Walker, we'll  
22 proceed and we'll get --

1 THE WITNESS: 2001, see, I don't have --

2 MS. WEATHERSBY: I don't have a question --

3 JUDGE RILEY: Excuse me. Excuse me. Strike

4 that, strike the remark.

5 MS. WEATHERSBY: No questions pending.

6 JUDGE RILEY: Please ask your next question,

7 Counsel.

8 MS. WEATHERSBY: Q Now, Mr. Walker, during the

9 time period when your account was disconnected to

10 the present, isn't it correct that you've made

11 partial payments on your account?

12 A Yes, I was paying with a certain income. I

13 pay my --

14 Q My question is, if the bill --

15 A I made some type of payment.

16 Q You made partial payments. You did not

17 make full payments.

18 A No full payment.

19 Q Okay. So, let's turn our attention again

20 back to the transcript, Exhibit A, Page 1 --

21 A What you mean "partial payment"? What do

22 you mean?

1       Q       Okay.  I'll give you an example.  We're  
2 going to go to the transcript.  Let's go to the  
3 transcript.

4                       Okay.  Mr. Walker, let's look at  
5 Line 14, which shows January, 2002, and under the  
6 payment column it shows a date, January 8th, 2002,  
7 it shows an amount due and, then, it shows the  
8 payment.  So the amount due was 628.  What was the  
9 amount that Peoples' records show that you paid on  
10 that day?

11       A       \$75.

12       Q       Okay.  Now, let's move to the next month.

13                       Could you state for the record what  
14 was the amount due and what was the amount that you  
15 paid?

16       JUDGE RILEY:  Okay.  When you say "next month,"  
17 Line 15?

18       MS. WEATHERSBY:  The subsequent line.  Yes,  
19 Line 15.

20       Q       So, could you state for the record, what  
21 was the amount that Peoples show that was due, over  
22 in the far right column under account due?

1           A       \$540.15.

2           Q       And what was the amount that is shown that  
3 you paid?

4           A       I paid 85.

5           Q       Okay. Let's move to the next month, which  
6 is Line 16. What was the amount due and what was  
7 the amount that you paid?

8           A       I paid 85.

9           Q       So, would you say, based upon this record,  
10 each month you made a partial payment against the  
11 amount due?

12          A       I paid something to the account, partial  
13 payment, yes. When you say "partial," I paid  
14 something.

15          Q       You paid less than the full amount due,  
16 correct?

17          A       Yes, I paid less than the full amount.

18          Q       All right. Fine.

19                   Now, let's move on to Page 2,  
20 Exhibit A, Page 2. Let's go to the top line,  
21 Line 1.

22                   If we look at Line 1, it shows a net

1 bill amount, it shows, it shows a previous balance,  
2 and it shows an account due. As of July, 2002,  
3 Peoples' records show that you owed, approximately,  
4 \$1200 -- \$1,211.66.

5                   Mr. Walker, this record, also, shows  
6 payment amount. Could you just tell us, for the  
7 record, whether or not you would agree that during  
8 the next, it looks, like, 15 or, even, 24 months,  
9 that you made, once again, partial payments.

10       A       Yes, I paid some money to the account.

11       Q       All right. So, in each occasion, you made,  
12 substantially, you would agree, less than the amount  
13 due, correct?

14       A       That's correct.

15       Q       All right.

16       A       I didn't have funds to pay the full amount.

17       Q       So, then, as of August, 2002, Line 2, in  
18 the far column, it showed \$1,197.06 was owed, and  
19 you paid how much?

20       A       80.

21       Q       And as you move down the line it shows that  
22 you paid \$75, \$80, \$80, \$80, so forth and so on, is

1 that correct?

2 A That's correct.

3 Q Now, let's move, then, to Line 15, that's

4 October, 2003, the reading date, October, 2003.

5 What does the account show was your amount due at

6 that time?

7 A What date?

8 Q Line 15. You go all the way to the right,

9 it shows you the amount due.

10 A 2,318.

11 JUDGE RILEY: \$2,318.20, is that correct? Yes?

12 THE WITNESS: (No response.)

13 MS. WEATHERSBY: Q And what was the amount you

14 paid at that time?

15 A I paid 160.

16 Q Now, Mr. Walker, you would agree, then,

17 looking at this, you paid less than the amount owed,

18 correct?

19 A Yes, I paid --

20 Q Okay. Thank you, Mr. Walker, you've

21 answered my question.

22 A I'm looking at the --

1 Q No. Mr. Walker, Mr. Walker --

2 JUDGE RILEY: Strike that.

3 MS. WEATHERSBY: Mr. Walker, you can only answer  
4 my question that I'm asking.

5 Q My question to you is, on each of these  
6 monthly occasions you paid less than the amount due,  
7 which left an amount owing to Peoples Gas, correct?

8 A I made a payment.

9 Q That's fine.

10 Now, Mr. Walker, at the time that you  
11 were making these \$80, \$75, less than the amount  
12 owed, were you on any type of authorized budget plan  
13 from Peoples Gas?

14 A I request for a budget plan from Peoples  
15 Gas. Also, I talked with --

16 Q Was it accepted?

17 A It must was had (sic), because the service  
18 was on. The service was on. Before I discussed  
19 anything over with you people here, I talked with  
20 the CEDA --

21 Q Mr. Walker, Mr. Walker, I just simply asked  
22 you, were you on a budget plan.

1       A       Yes.

2       Q       Are you paying -- yes, you were.

3       A       Yes.

4       Q       You were on a budget plan as of January,  
5 2004?

6       A       I'm not sure, ma'am.

7       Q       What was that, again?

8       A       I'm not sure, ma'am.

9       Q       All right. Moving down, then, to the time  
10 period of when your complaint was filed, that would  
11 be Line 24, July 27th, 2004, it shows that -- that's  
12 Line -- let me see if I'm lining this up properly.

13       JUDGE RILEY: Is that where it says, "Formal ICC  
14 dispute filed"?

15       MS. WEATHERSBY: Yes.

16       JUDGE RILEY: That is Line 23.

17       MS. WEATHERSBY: Thank you. Line 23.

18       Q       Mr. Walker --

19       A       This is just one complaint filed.

20       JUDGE RILEY: Okay. Strike it.

21       MS. WEATHERSBY: This is the only complaint  
22 that's in question. We're talking about complaint

1 04-0394.

2 Q At that time, Mr. Walker, just for the  
3 record, what does it show what the total amount owed  
4 on your account?

5 A 3,000, ma'am.

6 Q And what was the last payment that you had  
7 made?

8 A \$80.

9 Q Okay. So, just using basic math, you would  
10 say that, at least, 2900 was outstanding as of that  
11 time period, correct?

12 A (Unintelligible.)

13 Q Pardon me?

14 A That's what they're trying to show.

15 Q It shows that, at least, 2900 is still owed  
16 to Peoples Gas as of the filing of your complaint,  
17 correct?

18 A Yes.

19 Q Now, moving forward. Since July of 2004,  
20 and I think now we're coming -- we're in June, 2005,  
21 has Peoples Gas continued to provide gas service to  
22 you?

1           A       Yes, because --

2           Q       Has Peoples Gas continue to provide gas  
3 service?

4           A       Yes.

5           Q       Thank you.

6                   Now, during that time period, have you  
7 continued to make partial payments?

8           A       I have made some payments to Gas.

9           Q       Have those payments been full payments --

10          A       No.

11          Q       -- of the amount owed?

12          A       No, I don't have -- do you have \$3,000,  
13 ma'am, to pay for gas?

14          JUDGE RILEY: So, the answer is, yes, that you  
15 have been making partial payments.

16          THE WITNESS: I have been making payments.

17          MS. WEATHERSBY: Fine.

18          Q       So, then, as we proceed to the month of  
19 May, 2005, just can you read for the record what it  
20 shows the full amount that's due, according to  
21 Peoples' records?

22          A       \$3,691.22.

1           Q       And what was your last payment on that  
2 amount?

3           A       \$49.

4           Q       I'm sorry, Mr. Walker, I didn't hear you.  
5 What was your last payment?

6           A       \$49, what you have on the chart.

7           Q       So, then, now, you're making even less than  
8 the \$80 payment, correct?

9           A       That's correct.

10          Q       All right. Now, Mr. Walker, if you know,  
11 during the entire period of this dispute, you've had  
12 the same meter located at your premises?

13          A       Yes, ma'am.

14          Q       And that meter is located where?

15          A       I believe in the basement.

16          Q       And is this a locked area?

17          A       Yes, it is a locked area.

18          Q       And to your knowledge, does the company  
19 come into your premises and take readings, or are  
20 they electronic readings?

21          A       They're electronic.

22          Q       Okay. Thank you.

1 JUDGE RILEY: I didn't get the answer.

2 THE WITNESS: Electronic readings.

3 MS. WEATHERSBY: Q Now, other than your own  
4 payments -- your own partial payment, as you stated,  
5 the company has only received one other payment from  
6 an outside party; namely, through the LIHE or CEDA  
7 program, correct?

8 A LIHE -- it should have been the CEDA  
9 payments, ma'am.

10 Q And, so, then, correction, the company has  
11 received two payments from CEDA relative to your  
12 account. Even though you received those payments,  
13 you were still left with a significant balance.

14 A Ma'am -- that's correct, ma'am.

15 Q All right. Thank you.

16 A I was overcharged --

17 JUDGE RILEY: Strike it.

18 MS. WEATHERSBY: Q Mr. Walker, my only question  
19 is --

20 A Yes.

21 Q -- even though payments were applied, you  
22 were left with a significant balance.

1       A       That's correct.

2       Q       Now, after July, 2002, you had some

3       conversations with the gas company, correct?

4       A       Yes, I probably did.

5       Q       And, at that time, you indicated to them

6       that you wanted your gas service reconnected,

7       correct?

8       A       Yes.

9       Q       Pardon me?

10      A       Yes, that's correct.

11      Q       And, at that time, did you advise the gas

12      company that you had continued to reside at your

13      home, at 5701 South Wolcott, from November, 2001,

14      through that time period?

15      A       Yes, ma'am.

16      Q       So, then, you had never moved, right?

17      A       No, I didn't.

18      Q       And earlier you stated you had heat all the

19      time.

20      A       Yes, I did have heat all the time. It was

21      disconnected one time and you people restored the

22      services.

1 Q Mr. Walker --

2 A Okay.

3 MS. WEATHERSBY: I have no further questions for  
4 Mr. Walker. I would like to proceed with our case.

5 JUDGE RILEY: Okay. I still have to try and  
6 clear this up, this matter of disconnection and  
7 restoration.

8 MS. WEATHERSBY: I think that if Peoples can put  
9 on its case, I think that the record may become a  
10 little clearer.

11 JUDGE RILEY: Okay.

12 RE-EXAMINATION

13 BY

14 JUDGE RILEY:

15 Q Mr. Walker, I just want to go back at this  
16 one last time, very briefly.

17 It was my understanding that you have  
18 testified in the original hearing, and you have  
19 testified at this hearing, that even though your  
20 service had been disconnected sometime in November  
21 of 2001, it was restored by Peoples Gas very shortly  
22 thereafter?

1       A       Well, sir, in that case, we've gone -- yes,  
2   it was disconnected. We go back in the statement I  
3   have here (unintelligible) --

4       THE REPORTER: I'm having trouble understanding.

5       JUDGE RILEY: The court reporter is not  
6   understanding you.

7       Q       You said that it was disconnected.

8       A       Yeah.

9       Q       And that it was restored very shortly  
10   thereafter.

11      A       Yeah, it was restored very shortly. Yes,  
12   restored.

13      Q       Didn't you just testify in response to  
14   Counsel's question that after July 2002, you asked  
15   Peoples Gas to restore your service, wasn't that the  
16   testimony?

17      A       (No response.)

18      MS. WEATHERSBY: Yes.

19      JUDGE RILEY: Q Then, that presupposes that it  
20   had been disconnected, again.

21      A       Yes.

22      Q       It was disconnected November, 2001.

1       A       Right.

2       Q       Restored a day or two later. Then, it was

3 disconnected, again.

4       A       Yes.

5       Q       When was it disconnected the second time?

6       A       They should have a record of that. I don't

7 have a record of that. I know that it was restored.

8       Q       All right. It was disconnected.

9 Reconnected by Peoples Gas. Disconnected by Peoples

10 Gas, again, sometime later.

11       A       That's correct.

12       Q       And, then, in July, 2002, you were asking

13 them to restore it, again.

14       A       Why not?

15       Q       No. I understand --

16       A       Yes.

17       Q       -- that, but. . . Do you remember when it

18 was disconnected the second time?

19       A       No, not the exact record (sic).

20       JUDGE RILEY: Counsel, we're going to proceed

21 with your case unless you have any other questions

22 for Mr. Walker.

1 MS. WEATHERSBY: I do not.

2 JUDGE RILEY: But, I'm going to reserve the  
3 right to go back to Mr. Walker at any time --

4 MS. WEATHERSBY: Certainly.

5 JUDGE RILEY: -- for any clarification I might  
6 need.

7 MS. WEATHERSBY: Okay.

8 What I would like to do, once again,  
9 if I may, in order to clarify the record, is make  
10 that brief opening that I was not able to do at the  
11 beginning.

12 JUDGE RILEY: Okay.

13 MS. WEATHERSBY: I think that will set the stage  
14 and, then, produce our witness.

15 It is simply put -- it's Peoples'  
16 position that Mr. Walker has been properly billed  
17 and has not violated any of the Commission's rules.  
18 The records that will be produced and that have been  
19 produced will show that Mr. Walker had a gas  
20 account, that gas account was duly terminated by  
21 Peoples Gas and he received a final notice of  
22 disconnection and received a final bill of a set

1 number of dollars, approximately, \$700, or so, I  
2 think we've talked about.

3                   The records will show that Peoples  
4 disconnected that service at the B-box, outside of  
5 the premises, but was never allowed to confirm that  
6 his connection was effective on the inside --

7       THE WITNESS: (Unintelligible.)

8       JUDGE RILEY: Excuse me, Mr. Walker, someone --  
9 you can't interrupt. This is counsel's case.

10                   Please continue.

11       MS. WEATHERSBY: The records will show that the  
12 account was disconnected from the outside and  
13 Peoples was not able to confirm that it was, in  
14 fact, properly disconnected from the inside, and as  
15 a result, the gas continued to be used at the  
16 premises. There were actual readings throughout  
17 this entire period.

18                   The records will show that occupant  
19 bills were sent to whomever was residing at the  
20 premises to show that gas had been used for the last  
21 seven months. That bill amount totaled,  
22 approximately, \$1,000.

1                   After July, 2002, Mr. Walker contacted  
2 Peoples and indicated that he was at the premises,  
3 he wanted gas service and had, in fact, been at the  
4 premises throughout the entire period of  
5 disconnection. As a result, the occupant bill was  
6 transferred from the name, Occupant at 5701 Wolcott,  
7 into the name of David Walker. The new account that  
8 was established, as of July, 2002, consequently,  
9 included bills from the previous balance where the  
10 account was in his name and terminated, November,  
11 2001. It included the gap bills during the occupant  
12 period, where, apparently, the gas was still  
13 continuing to flow and the heat was on at the  
14 premises. And it included the new account that  
15 Mr. Walker had requested Peoples Gas to establish.

16                   The evidence will show that, as a  
17 result, we have a cumulative amount of bills that  
18 were just tagged together. Mr. Walker made partial  
19 payments. And, as a result, he still owes a  
20 significant balance.

21           THE WITNESS: Well --

22           JUDGE RILEY: Excuse me. Mr. Walker, you cannot

1 speak. I'm sorry. We will get back to you.

2 MS. WEATHERSBY: The evidence will show that the  
3 meter was the same meter at all times. There was an  
4 electronic device. There were actual readings.  
5 There's no question about the readings. Gas was  
6 flowing to the premises. Because bills were sent to  
7 the premises within a one year period, the billing  
8 was correct. Mr. Walker has failed to pay the full  
9 amount of his bills and is -- in fact, the record  
10 will show, is not on a budget plan, but, in light of  
11 the dispute, Peoples has not disconnected his gas  
12 service, notwithstanding the rules that require a  
13 complainant to continue to pay his current bills,  
14 while a dispute is continuing.

15 So, Mr. Walker is -- as a result, we  
16 have billings that are owed from the first billing  
17 period, the occupant period, the current period, and  
18 the post dispute period, which leaves Peoples Gas  
19 being owed a significant amount of money.

20 That is my opening. And with that,  
21 I'd like to put on my first witness, Mr. Brian  
22 Schmolt (phonetic).

1 JUDGE RILEY: Good morning, Mr. Schmolt.

2 MR. SCHMOLT: Good morning.

3 (Witness sworn.)

4 JUDGE RILEY: Please proceed.

5 BRIAN SCHMOLT,

6 called as a witness herein, and after having been

7 first duly sworn, was examined and testified as

8 follows:

9 DIRECT EXAMINATION

10 BY

11 MS. WEATHERSBY:

12 Q Mr. Schmolt, just to correct the record,

13 why is Mr. McDillon (phonetic) not here today?

14 A Mr. McDillon is no longer with the company.

15 Q And he was the Peoples Gas witness at the

16 first hearing?

17 A Yes.

18 Q Can you state how long you've been with

19 Peoples Gas?

20 A I've been with Peoples Gas 12 years.

21 Q And do you have experience in reviewing the

22 records relating to billing and payments?

1           A       Yes.

2           Q       And did you review the records relating to  
3 Mr. Walker's account for the three periods that have  
4 been discussed?

5           A       Yes.

6           Q       And in preparation for today's hearing, did  
7 you, in fact, prepare the transcript that's been  
8 produced and Respondent's Exhibit A, or Exhibit 8,  
9 for the record?

10          A       Yes.

11          Q       And did you prepare that transcript, based  
12 upon a review of the underlying business records of  
13 Peoples Gas?

14          A       Yes.

15          Q       Were these business records the monthly  
16 bills that would have been issued to Mr. Walker?

17          A       Yes.

18          Q       Were these business records, do they  
19 include the occupant bills that would have been  
20 issued to the premises at 5701 South Wolcott?

21          A       Yes.

22          Q       Did these bills -- strike that.

1                   Did this transcript, was it based upon  
2 the records that would have, also, included the  
3 service calls that were made to the premises?

4       A       Yes.

5       Q       And is this Peoples Gas' -- are these  
6 records kept in the normal course of business?

7       A       Yes.

8       Q       With that said, I would like to draw your  
9 attention, then, to, once again, the proposed  
10 Exhibit A, which everyone should have a copy of.

11                   Let's just start with clarifying the  
12 account number.

13                   What was the first account number that  
14 was established for Mr. Walker?

15       A       The first account number established for  
16 Mr. Walker was 9500018014101.

17       Q       Okay. Now, according to Peoples Gas'  
18 records, when was that account disconnected?

19       A       November 3rd, 2001.

20       Q       Now, I would like to draw to your attention  
21 from the -- I guess, the original records that were  
22 produced, to just clarify, how was that -- that

1 would be Exhibit -- how was this account  
2 disconnected?

3 A At the buffalo box.

4 Q I would like to draw your attention, then,  
5 to Exhibit B, that's in the supplemental record.

6 JUDGE RILEY: You call that a buffalo box?

7 THE WITNESS: That's what it called. "B-box" is  
8 short for buffalo box.

9 MS. WEATHERSBY: Q Drawing your attention to  
10 Exhibit B, whose name was this account in?

11 A David Walker.

12 Q And what does it show was owed at the time  
13 that this account was disconnected?

14 A At the time the account was disconnected he  
15 owed \$970.04.

16 Q Now, what was the meter number on that  
17 account at the time that it was disconnected?

18 A The meter number is 2589712.

19 Q And drawing your attention back to  
20 Exhibit B, does this record, in fact, show that that  
21 meter had an earth (sic) device on it?

22 JUDGE RILEY: Had a what device?

1 THE WITNESS: Remote reading device.

2 MS. WEATHERSBY: Q What is a remote reading  
3 device, for the record?

4 A A remote reading device allows the company  
5 to read the meter from the outside without having to  
6 physically enter the premise.

7 Q Does this record show that Peoples, on this  
8 occasion, entered the premises?

9 A No, we did not enter the premise.

10 Q So, at no time, then, was it confirmed that  
11 the buffalo box disconnection was 100 percent  
12 effected.

13 A Correct. No, it was not confirmed.

14 Q Okay. How did the company become aware  
15 that gas was continuing to flow at the premises?

16 A When we got meter readings indicating the  
17 gas was still on.

18 Q When did the company receive its first  
19 meter reading at the premises?

20 A December 4, 2001.

21 Q Drawing your attention back to Exhibit A,  
22 does that record show what the meter reading was on

1 that day?

2 A Yes.

3 Q What was that reading?

4 A The reading was 2672.

5 Q Now, just to make it real clear --

6 JUDGE RILEY: We have to slow down a little.

7 2672 was the reading on what day?

8 THE WITNESS: December 4th, 2001.

9 JUDGE RILEY: And that was when Peoples Gas had

10 gone back out to do a -- was it a remote reading?

11 THE WITNESS: Yes.

12 JUDGE RILEY: Hold on.

13 (Short pause.)

14 JUDGE RILEY: And the reading was?

15 THE WITNESS: 2672.

16 JUDGE RILEY: Please continue. I'm sorry.

17 MS. WEATHERSBY: No, no problem. No problem.

18 Q And if we turn to the transcript, it makes

19 it real clear, if you want to just compare the

20 reading from when it was turned off versus the

21 subsequent reading.

22 As we go to the transcript and we look

1 at Lines 23 through 29, did the van reading show  
2 that the meter was still registering gas?

3 A Yes.

4 Q Exhibit A, Page 1, Lines 23 through 30  
5 (sic).

6 So, when it says, reading type, van,  
7 is that the same type of reading that was done in  
8 the earlier period?

9 A Yes.

10 Q Is that the same type of reading that was  
11 done in the subsequent period?

12 A Yes.

13 Q So, if we look at the last reading back in  
14 November of 2001, when it was turned off, it looks  
15 like here 2367, right?

16 A Correct.

17 Q Based upon Line 12, meter reading.

18 Now, as you go down to, let's say,  
19 June of 2002, what does it show the reading was?

20 A The reading in June, 2002, is 4110.

21 Q So, that suggests that another 2000 feet of  
22 gas was used, correct?

1       A       Approximately.

2       Q       All right. Now, as we look at the period  
3 between November and June, that included the winter  
4 heating season, did it not?

5       A       Yes, it included the heating season.

6       Q       So, after the company became aware that gas  
7 was still being used at the premises, after the  
8 disconnection in November, what is the company's  
9 policy with respect to these readings?

10      A       At the time we sent out a bill under  
11 Occupant.

12      Q       Now, Mr. Wolcott's (sic) previous account  
13 was located at 5701 South Wolcott, Front, correct?

14      A       Mr. Walker's. Yes.

15      Q       I'm sorry. Mr. Walker. Thank you.

16                   Now, after the company obtained those  
17 readings, did it, then, send a bill to that same  
18 address in the name of Occupant?

19      A       Yes.

20      Q       I draw your attention, then, to Peoples'  
21 proposed Exhibit D, and ask you, is that a copy of  
22 the bill that would have been sent to the location,

1 back in June of 2002?

2 A Yes.

3 Q What does this bill reflect in terms of an  
4 account number, usage, et cetera? Would you explain  
5 that bill for us.

6 A Well, new account is established for  
7 occupant. And that account number is 9500028603361.  
8 And what that does is show the usage that was on the  
9 meter and a bill sent out showing how much was being  
10 used. So, at that time, it was an \$875.81 bill.

11 Q And just to tie this bill to your  
12 transcript to support the business record exhibit,  
13 Line 29, Exhibit A, that shows that the van reading,  
14 as of that date, was 4110, and that the bill amount  
15 was \$875, correct?

16 A Right.

17 Q Now, it was the very next month, then, July  
18 of 2002, that Mr. Walker contacted the company,  
19 correct?

20 A Yes.

21 Q Now, after he contacted the company, was a  
22 new account established?

1       A       Yes, a new account was established for  
2 Mr. Walker.

3       Q       Now, what was that account number?

4       A       The new account number is 9500029586293.

5       Q       Now, at the time that that account was  
6 established, what was Mr. Walker's pre-existing  
7 balance, I guess?

8       A       Well, he had a previous balance of \$258  
9 from previously that was left unpaid.

10      Q       When you say "previously," where did that  
11 \$258 come from, as shown by the transcript?

12      A       It came from the first account number we  
13 gave, he had a previous balance owing of \$970. He  
14 paid that bill down to \$258.

15      Q       So, if you go to Transcript A, it shows his  
16 balance of \$900, and then, he made these partial  
17 payments, that he's testified to, on monthly bases,  
18 and it brought the net balance, as shown on Line 20,  
19 to \$258, right?

20      A       Correct. Yes.

21      Q       So, that \$258 was attached to his third  
22 account.

1           A       Correct, to the new account.

2           Q       To the new account.

3                   Now, in addition to the \$258, what  
4 else was attached?

5           A       The occupant usage bill.

6           Q       So, then, when he started his account in  
7 July of 2002, he started out behind by about \$1200,  
8 right?

9           A       Correct.

10          Q       Now, let's go to the next month after that,  
11 the August 28th, 2002.

12          JUDGE RILEY: Are we on the transcript now?

13          MS. WEATHERSBY: We're looking at the transcript  
14 and, then, I'm having him support it by each bill.

15          JUDGE RILEY: Okay. The bills that you've got  
16 here, are these Exhibits D, E and F?

17          MS. WEATHERSBY: Yes.

18          JUDGE RILEY: Okay. Exhibit D, the bill date is  
19 June 3, 2002, and it jumps to Exhibit E all the way  
20 to September. There's no July and no August.

21          MS. WEATHERSBY: Exhibit D, the first page shows  
22 the front, that there was an occupant bill.

1 JUDGE RILEY: Right.

2 MS. WEATHERSBY: Exhibit E will be used later to  
3 show that the entire building was being billed for  
4 occupant usage, because it showed reading at both  
5 the front and the rear.

6 JUDGE RILEY: So, in other words --

7 MS. WEATHERSBY: That's not related to his  
8 account, but it goes to the physical evidence that  
9 the B-box was not fully closed because readings  
10 continued to come from both meters at that premises.

11 JUDGE RILEY: Okay. I'll trust --

12 MS. WEATHERSBY: We're not there, yet.

13 JUDGE RILEY: I'll trust you'll straighten this  
14 all out.

15 MS. WEATHERSBY: Right.

16 Q Now, we will return to the transcript,  
17 Page 2, Line 2.

18 Was a van reading taken for August of  
19 2002?

20 A Yes.

21 Q Was a van reading taken for September,  
22 2002?

1           A       Yes.

2           Q       Was a van reading taken for every  
3 subsequent month?

4           A       Yes.

5           Q       And for each month did the company send  
6 Mr. Walker a bill?

7           A       Yes.

8           Q       Are those bills -- we have certain bills  
9 that were attached to the previous record and we  
10 have certain bills here.

11          A       Yes.

12          Q       So, were these bills sent to Mr. Walker at  
13 5701 South Wolcott?

14          A       Yes.

15          Q       And with each payment did it leave a  
16 balance due?

17          A       Yes.

18          Q       So, if we go, then, to Exhibit F, which is  
19 in the supplemental record, it shows a payment due  
20 date of December, 2004 -- which account number is  
21 this?

22          A       9500029586293.

1       Q       So, if you look at this entire bill, as of  
2   December, 2004, what does it show under the previous  
3   balance?

4       A       \$3,102.47.

5       Q       And is this previous balance shown on the  
6   transcript?

7       A       Yes.

8       Q       Line 28, under previous balance.

9                   Now, why is it that this bill does not  
10   show the full amount owed of 3102, plus the 904?

11       A       Well, because when you put in a dispute  
12   with the Illinois Commerce Commission, the balance  
13   that's under dispute is put on hold, basically, and  
14   it's in the message part of the bill, on Exhibit F.  
15   So, it's saying, you have \$2268.28 in dispute that  
16   is not included in the amount due.

17       Q       But, notwithstanding, the fact that he had  
18   over 2000 that's in dispute, it showed another \$900  
19   that's owed to Peoples Gas, correct?

20       A       Correct.

21       Q       So, if you were to go through the next  
22   bill, that continues to show the same thing, the

1 amount of dispute, plus the amount owed.

2 A Correct.

3 Q And these amounts mirror up to the amount  
4 in the transcript to get us to our final figure of  
5 Peoples Gas being owed, and Line 34, approximately,  
6 \$3,691.

7 A Correct.

8 Q Now, let's go back to the physical premises  
9 and the buffalo box, connection, reconnection  
10 issues.

11 Let's turn, then, to Exhibit E, where  
12 it says Occupant, Rear.

13 Now, why is this bill important? Why  
14 don't you explain it.

15 A Well, when we shut the gas service off at  
16 the buffalo box it was, also, because that the first  
17 floor rear tenant was behind on their gas bills,  
18 too. So, when we cut off the service at the buffalo  
19 box, we're actually cutting off the -- we were  
20 actually cutting off the first floor and -- the  
21 first floor front and the first floor rear.

22 Q Okay. And, once again, when was this

1 disconnected at the buffalo box?

2 A November 3rd, 2001.

3 Q So, the company found that the gas was  
4 still flowing to the premises in the front and the  
5 rear, correct?

6 A Correct.

7 Q So, these bills show that the company sent  
8 Occupant bills to the front and to the rear.

9 A Yes.

10 Q So, Mr. Walker's account was treated  
11 consistently as other accounts are treated.

12 A Yes.

13 Q So, at the end of the day, how much does  
14 Mr. Walker owe Peoples Gas at this time, as shown by  
15 this transcript?

16 A \$3,691.22.

17 Q And has Mr. Walker received monthly bills  
18 through this entire period?

19 A Yes.

20 Q And during the period that there was  
21 occupant usage, were monthly bills sent to the  
22 premises?

1           A       Not monthly bills, no.

2           Q       When were the bills first sent to the  
3 premises for the Occupant bill?

4           A       The first Occupant bill was mailed out in  
5 May of 2002.

6           Q       So, his complaint was filed May of 2004,  
7 which takes us back to the period of May of 2002.  
8 And during this entire period, Peoples has continued  
9 to send him monthly bills, correct, from May, 2002,  
10 to the present.

11          A       Yes.

12          Q       So, at no time period do we have a time  
13 where we are attempting to send him a bill that is  
14 more than one year old, is that correct?

15          A       Correct.

16          MS. WEATHERSBY: I have nothing further.

17          JUDGE RILEY: Okay. Thanks.

18                   Mr. Walker, I'm going to give you a  
19 full opportunity to cross-examine here in just a  
20 minute, but I want to ask Mr. Schmult some questions  
21 of my own, just to make sure we've got a complete  
22 record.

1 EXAMINATION

2 BY

3 JUDGE RILEY:

4 Q Mr. Schmolt, then, it's my understanding  
5 from your testimony is that when Peoples Gas went  
6 out on November 3, 2001, to disconnect the service  
7 by turning whatever they do at the buffalo box, that  
8 somehow they did not -- I don't want to sound too  
9 harsh, but they did not do it properly, or it was  
10 done mistakenly and that gas continued to flow both  
11 to Mr. Walker's unit and to the other occupant that  
12 was metered on the first floor?

13 A Well, a certain person goes out there and  
14 shuts it off at the buffalo box, they're assuming  
15 the gas is shut off. And if he doesn't go inside to  
16 verify that it's off, maybe a couple weeks later or  
17 a week later or a day later, we don't know until we  
18 get a reading off the meter.

19 Now, the first reading wouldn't  
20 indicate occupant usage, yet, because the bill was  
21 estimated. Any reading after that it shows the  
22 difference, after that, then, that's when we see the

1 occupant usage.

2 Q All right. Service was, purportedly, shut  
3 off at the B-box, November 3, 2001. When did  
4 Peoples go back and do an actual reading and find  
5 out that the disconnection had not, actually, taken  
6 place?

7 A Well, that would have been -- I couldn't  
8 find a January reading, so, we had a reading in  
9 February. And, then, February of 2002, is when we  
10 saw that there was additional gas usage.

11 Q Okay, so, Peoples knew that the B-box  
12 disconnection had not, actually, taken.

13 A Correct.

14 Q And that the gas was still flowing to both  
15 of the occupants on the first floor, Mr. Walker, and  
16 whoever else was there.

17 A Correct.

18 Q And these were two separate units, is that  
19 right?

20 A Yes.

21 Q With a common meter.

22 A Two different.

1 Q Two different meters.

2 A Two different meters.

3 Q But, the B-box disconnection was supposed  
4 to shut it off to the whole first floor?

5 A Right. I think it's a two-flat. So, the  
6 meter was for the front part of the building and one  
7 meter was for the back part of the building, but  
8 there was just one main going to the building.  
9 That's all we need is one main service.

10 Q Okay. What, I guess, I don't understand, I  
11 don't even know if this is relevant. But if the  
12 other occupant in the rear, if their account were  
13 up-to-date, wouldn't the B-box disconnection shut  
14 them off, also?

15 A They weren't up-to-date.

16 Q Okay.

17 A That's why we shut it off at the B-box.

18 Q That's why you used the B-box instead of  
19 just locking off an individual meter, then.

20 A Right. Just assuming the service person  
21 couldn't get in at the time he went out there, so,  
22 instead of -- since both meters -- since both

1 accounts were behind, we just locked it off from the  
2 outside.

3 Q I see. This was one of the chief concerns  
4 of the Commission upon reopening -- for reopening  
5 this record.

6 Is there any evidence whatsoever that  
7 there was any tampering or diversion with the pipes  
8 or with the meter or with the B-box?

9 A No, we're not saying it's tampering.

10 Q Okay. There was no tampering. It was  
11 simply that the attempted disconnection at the  
12 buffalo box didn't take, and that gas continued to  
13 flow to the residences.

14 A Uh-hum.

15 Q And then, subsequently, the company came  
16 out and did an actual reading -- what was that by  
17 remote?

18 A Yes.

19 Q That's in a van, right?

20 A Yes.

21 Q And determined that the gas was still  
22 flowing.

1       A       Yes.

2       Q       So, what they did was just continue to bill  
3 the occupants of these two units.

4       A       Yes.

5       Q       All right.

6       A       Well, yeah, we just sent out a bill for  
7 Occupant. We shut off Mr. Walker. We can't say 100  
8 percent for sure that he's there until we verify  
9 that he's there.

10      Q       Okay.

11      A       We can't just bill him for it and say,  
12 Okay, you're there, and what if he's not there.  
13 What if he moved out after we shut it off.

14      Q       Which, in fact, was not entirely shut off.

15      A       Right.

16      Q       So, in other words, it might not have been  
17 full gas flow. It might have just been, like, just  
18 a smaller stream of gas going to the units?

19      A       Might have been. Yes.

20      Q       But under any circumstances it was  
21 recorded -- the meters were recording usage.

22      A       Yes.

1       Q       And, then, it wasn't until July of '02,  
2 when Mr. Walker contacted Peoples Gas and said, I'm  
3 still here. I want service.

4       A       Correct.

5       Q       When, in fact, he already did have service.  
6 His service had never completely stopped.

7       A       Correct.

8       Q       Then you went back to billing him as  
9 Mr. Walker.

10      A       Correct.

11      Q       And that was the third account number.

12      A       Yes.

13      Q       So, he had an original account number, an  
14 Occupant account number and, then, a third account  
15 number.

16      A       Yes.

17      Q       And I noticed in these exhibits, D and E,  
18 that there were two different Occupant account  
19 numbers.

20      A       Right, because one is for the front  
21 apartment and one is for the rear apartment.

22      Q       I see.

1       A       You'll see it on there.  It says "front" --  
2  it says "one front."  And, then, the other one  
3  you'll see it says "one rear."

4       Q       "One rear," but that's not Mr. Walker.

5       A       That's not Mr. Walker.

6       Q       Okay.  So, we're not going to worry about  
7  that.

8                       That was the chief concern of the  
9  Commission.  There was no illegal tampering.  There  
10 was nothing cut.  There was no locks that were  
11 broken off.

12      A       Right.

13      Q       There was no evidence of anything like  
14 that, then.

15      A       No.

16      JUDGE RILEY:  Mr. Walker, do you have any  
17 questions for Mr. Schmolt?

18      MR. WALKER:  Yes.

19                       CROSS EXAMINATION

20                       BY

21                       MR. WALKER:

22      Q       When you normally send out to occupant, do

1 there be correct amount of usage of gas at that  
2 residence -- current residence for a period of time,  
3 or would that be just a normal estimate or would it  
4 be just an average estimate?

5 A No, if we read the meter, we're billing you  
6 based on the meter reading. We don't send out  
7 occupant bill for estimate.

8 Q This is estimate (indicating)?

9 A No, this is not an estimated bill. These  
10 are actual meter readings.

11 Q Well, when you said, "occupant," at the  
12 present time there is someone staying at the  
13 premises where it says "occupant," right? You're  
14 not sure, though, right?

15 A Yeah, we're not 100 percent sure.

16 Q So, a lot of times it be an abandoned  
17 building, or something like that, and you still will  
18 send a bill out for occupant, right?

19 A Uh-hum.

20 Q And that means that gas would be flowing,  
21 they would be billed, correct?

22 A If the gas is on. Yes.

1       Q       A lot of time when you bring a person out  
2 to disconnect, okay, from the B-box, which is  
3 outside, it's supposed to be cut out completely.

4 But still somewhere along the line there's some  
5 technical errors, some issues, something like that,  
6 where gas did flow through the occupant place and  
7 the person get charged for that, right, sir?

8       A       I'm not following.

9       Q       Has there been any incident since your time  
10 with Peoples Gas that, your experience, at a  
11 building or a resident sent out a bill "occupant,"  
12 after you turn the gas off, okay? You're not sure.  
13 Let's say, you turn the gas off, right?

14      A       But we shut --

15      Q       You turn the gas off. It should be off  
16 completely, right? No gas will flow to that place  
17 at all, correct?

18      A       If --

19      Q       If you turn off --

20      A       If we say we turned off the gas, there's  
21 supposed to be no gas going to the premises.

22      Q       But still, you cumulated an estimate charge

1 there and you came up with a bill, that's estimate  
2 charge, says "occupant," at that residence.

3 A No.

4 Q You say that the meter was showing --  
5 indicating that some gas was flowing to that  
6 occupant place, right?

7 A Not an estimate. No, we won't send out an  
8 estimate bill.

9 Q That's what "occupant" means, estimate.

10 A No, it does not.

11 Q On this chart right here it shows here, on  
12 the meter here, at that period of time, where you  
13 all show that gas was flowing at that residence, but  
14 you had billed for the person, "occupant," as an  
15 estimate charge.

16 A It's not an estimated charge.

17 Q Well, how you know exactly that the gas was  
18 flowing? How would you go about detecting that if  
19 the meter be (unintelligible)?

20 A No. The meter picks up usage. So, the  
21 meter only registers if gas is flowing through it.

22 Q Right.

1       A       Except there's no gas going through. It  
2 would still register the same reading every month.

3       Q       But, still, once you cut the service off of  
4 the area, and you people indicating, estimated or  
5 detect that some gas is flowing through that  
6 residence where you shut it off at, the cumulated  
7 bill says "occupant," right, or estimates of charge.  
8 Because you determined some gas was flowing through  
9 or detected or metered, some gas was flowing the  
10 occupant (sic) at that place at the present time.

11       MS. WEATHERSBY: Objection. The question is  
12 cumulative. It's confusing.

13       JUDGE RILEY: Yes, there's some --

14       MS. WEATHERSBY: We need to have a question.

15       MR. WALKER: Q Okay. What I don't understand  
16 is, sir --

17       JUDGE RILEY: We're having some difficulty  
18 understanding what the question is.

19       MR. WALKER: Q -- for the bill that you said  
20 "occupant," sir --

21       A       Right.

22       Q       -- that it's just an estimate charge

1 because they had detect some type of leakage to the  
2 residence place after it had been shut off.

3 A Okay.

4 Q From occupant time and from a general bill  
5 from changing one billing account to another --  
6 cumulate another account, they have some service  
7 charges in those changes, then, sir, that I'm  
8 getting charged for, that I could not see those  
9 service being used at that residence place. That's  
10 the question that I'm asking, sir.

11 JUDGE RILEY: Okay. I'm still not sure about  
12 your question. I think -- for one thing --

13 MR. WALKER: I'm sure about the fact that I  
14 received a bill here, sir, that says "Occupant" --

15 JUDGE RILEY: Right.

16 MR. WALKER: -- on estimate charge, way above  
17 the normal usage that is average per month, sir.  
18 That's what I'm looking at. I'm looking at a bill  
19 that says "Occupant," different account number, a  
20 charge that's over the cost that is normally used  
21 per month.

22 JUDGE RILEY: It's excessive of normal use.

1 MR. WALKER: Yes.

2 JUDGE RILEY: Okay.

3 MR. WALKER: That was issued, but see --

4 THE WITNESS: No. No. No.

5 MS. WEATHERSBY: Objection.

6 JUDGE RILEY: Excuse me. Excuse me. Stop. All

7 right. Everyone stop.

8 Did you ask a question? Do you have a

9 question pending?

10 MR. WALKER: Q My question pending, when you

11 turned the gas off, sir -- a person came out, turned

12 the gas off and someone detected that it was still

13 gas on to the premises, sir, and cumulated a bill

14 called, "Occupant," and the usage within that time

15 frame gets cumulated to the bill, it's estimate

16 charge, correct?

17 A No.

18 Q Or it's --

19 JUDGE RILEY: His answer is, no. It's not an

20 estimated charge.

21 THE WITNESS: And you, also, got to realize,

22 too, is that it's not a bill for one month worth of

1 service. That bill that we sent out is for five  
2 months worth of service.

3 MR. WALKER: Q Five months of service.

4 A Yes. We're not sending you out a one month  
5 bill, saying you owe \$800 for one month. We're  
6 saying that, you know, \$800 for five months.

7 JUDGE RILEY: It's accumulative.

8 THE WITNESS: It's accumulative. Right.

9 JUDGE RILEY: And what your testimony is, that  
10 simply because you were addressing that bill to  
11 occupant does not, necessarily, mean that it's an  
12 estimate. These were actual readings made by a  
13 van --

14 THE WITNESS: Correct.

15 JUDGE RILEY: -- from a remote location.

16 THE WITNESS: Correct.

17 MR. WALKER: No questions, sir. No further  
18 questions.

19 MS. WEATHERSBY: I have some redirect.

20 JUDGE RILEY: Go ahead.

21

22

1 REDIRECT EXAMINATION

2 BY

3 MS. WEATHERSBY:

4 Q Just to clarify, going back to the  
5 transcript, Exhibit A, this transcript under the  
6 column meter reading shows the actual readings that  
7 were taken by the electronic reading device,  
8 correct?

9 A Correct.

10 Q And these readings show that there was an  
11 increase on a monthly basis during the time period  
12 when the gas should have been off, correct?

13 A Correct.

14 Q All right. Now, to go back to the  
15 questions that Mr. Walker was asking you. If, in  
16 fact, the premises were empty and no one was using  
17 gas appliances, the reading would remain at the  
18 previous reading, correct?

19 A Correct.

20 Q So, the reading only increases as gas flows  
21 through the meter, correct?

22 A Correct.

1       Q       So, then, in order for the reading to  
2 increase, someone had to use appliances on the other  
3 side of the meter to draw gas through the meter.  
4       A       Correct.  
5       Q       So, the numbers increase with usage.  
6       A       Correct.  
7       Q       So, these numbers suggest and indicate that  
8 usage was being had at the premises during that  
9 period.  
10      A       Yes.  
11      Q       And each of these readings were actual  
12 readings.  
13      A       Yes.  
14      Q       And during this period of November through,  
15 let's say, March, is this not considered the winter  
16 heating season?  
17      A       Yes.  
18      Q       And during this period more gas is,  
19 typically, used.  
20      A       Yes.  
21      Q       And Mr. Wolcott, had a -- I'm sorry,  
22 Mr. Walker. Excuse me, I keep doing that.

1                   Mr. Walker had a heating account as  
2 well, right?

3       A       Yes.

4       MS. WEATHERSBY: No further questions.

5       JUDGE RILEY: All right. Mr. Walker, did you  
6 have anything further based on that?

7       MR. WALKER: What you mean by "heating account"?  
8 That's the question. What you mean by "heating  
9 account," ma'am? You mean, in other words, you  
10 charged me for cooking gas and heating? All should  
11 be one flow of charge at that resident, ma'am.

12       JUDGE RILEY: Direct it to the witness.

13       THE WITNESS: Yes, your account is considered a  
14 heating account, cooking gas, hot water and a  
15 furnace or boiler, or whatever you use to heat the  
16 premise.

17       JUDGE RILEY: Anything further?

18       MR. WALKER: No further questions. Thank you.

19       JUDGE RILEY: All right. Did you have any  
20 further witnesses, Counsel?

21       MS. WEATHERSBY: No.

22       JUDGE RILEY: Okay. Mr. Walker, the first thing

1 I want to deal with, what documents did you bring  
2 with you today? Let me see them.

3 MR. WALKER: All I have are these documents  
4 here, sir, show where the charges was increased and  
5 it shows -- shows where it was increased, sir, you  
6 know when it was occupant. That's all I have,  
7 documents showing that. And that's when they --  
8 like I said, those charges was carried previous  
9 balance, over balance, sir, when I (unintelligible).

10 MS. WEATHERSBY: Are these the same records that  
11 were produced at the first hearing?

12 MR. WALKER: Yes. That's what I have is the  
13 same records, ma'am.

14 JUDGE RILEY: But, I notice, Counsel, that I had  
15 not -- okay, we do have those group exhibits.

16 I did admit these into evidence the  
17 first time around.

18 Did you have anything additional?

19 MR. WALKER: No, nothing additional.

20 (Witness excused.)

21 JUDGE RILEY: All right.

22 MR. WALKER: I was curious about when they

1 changed the account, they cumulated another account  
2 and a lot of times when they cumulative another  
3 account, you know --

4 MS. WEATHERSBY: Objection.

5 JUDGE RILEY: I understand.

6 Mr. Walker, what I've got to explain  
7 to you is that we're not in an informal conversation  
8 here. This is a courtroom. You can only speak in  
9 response to a question.

10 (Short pause.)

11 JUDGE RILEY: These I already have. These were  
12 admitted into evidence the first time you were here.

13 Counsel, then we have --

14 MS. WEATHERSBY: Yes. We have our request for  
15 leave to file the post record data. And we will be  
16 seeking to have each of those documents admitted  
17 except for the ones that are shown as Exhibit E,  
18 which goes to the rear account, Occupant Rear.

19 JUDGE RILEY: Right.

20 MS. WEATHERSBY: So, we're seeking to have each  
21 of those business records admitted, which do no more  
22 than further supplement the transcript, which is

1 Exhibit A, which has been used in the hearing.

2 JUDGE RILEY: All right.

3 MS. WEATHERSBY: Every record that is listed  
4 here, that information was requested on the  
5 transcript.

6 JUDGE RILEY: All right. Let's hash this out  
7 now.

8 What you have marked as Exhibit A, you  
9 refer to it as a transcript?

10 MS. WEATHERSBY: Yes. Exhibit A, Pages 1 and 2.

11 JUDGE RILEY: I am going to mark those -- I'm  
12 going back to the numbering system that I used at  
13 the original hearing. And just as in the interest  
14 of clarity, what you have referred to as Exhibit A,  
15 we're going to mark as Exhibit 7, and it's  
16 consisting of two pages.

17 MS. WEATHERSBY: Yes.

18 JUDGE RILEY: And that is the transcript of  
19 billings testified to by Mr. Schmult.

20 MS. WEATHERSBY: Yes.

21 JUDGE RILEY: Mr. Walker, do you have any  
22 objection to counsel's motion to admit this into

1 evidence?

2 MR. WALKER: No objection, sir.

3 JUDGE RILEY: All right. Then, Exhibit 7 is

4 admitted into evidence.

5 (Whereupon, Respondent's

6 Exhibit 7 was admitted

7 into evidence.)

8 MR. WALKER: This is the transcript here

9 (indicating)?

10 JUDGE RILEY: Yes.

11 MR. WALKER: No objection.

12 JUDGE RILEY: Okay. What you've marked as

13 Exhibit B, what is the title of that, again?

14 MS. WEATHERSBY: That is a service record.

15 JUDGE RILEY: Was that admitted?

16 MS. WEATHERSBY: Exhibit B, which would be our

17 proposed Exhibit 8, was not admitted before. It

18 supplements the previous Exhibit 2. Those two

19 records go together. So, we would be seeking to

20 have Exhibit B entered as Exhibit 8.

21 JUDGE RILEY: And, Mr. Walker, was there any

22 objection to what's marked as -- we're now calling

1 Exhibit 8, which reads Exhibit B.

2 MR. WALKER: These are what the -- it appears

3 the boxes, something like that?

4 MR. SCHMULT: It's just showing you when we shut

5 off the gas the first time.

6 MR. WALKER: It's admitted.

7 JUDGE RILEY: Okay. You have no objection.

8 MR. WALKER: No objection.

9 JUDGE RILEY: All right.

10 And what else is there? You've got

11 one marked as Exhibit C?

12 MS. WEATHERSBY: This is just showing the

13 occupant bill, just to support for the carry-over

14 charges on the transcript. So, that would be

15 Exhibit 9.

16 JUDGE RILEY: This is another service order?

17 It's called a read detail?

18 MR. SCHMULT: A read detail.

19 JUDGE RILEY: Any objection to that one,

20 Mr. Walker?

21 MR. WALKER: Give me some information for, like,

22 a read detail.

1       MR. SCHMULT:   I should say billing -- it's a  
2 billing detail.

3       JUDGE RILEY:   Again, Mr. Walker --

4       MR. WALKER:    No objection.

5       JUDGE RILEY:   Just so the record is clear,  
6 Exhibit 8 and Exhibit 9 are admitted into evidence.  
7                               (Whereupon, Respondent's  
8                               Exhibits 8 and 9 were  
9                               admitted into evidence.)

10      JUDGE RILEY:   That brings us to these actual  
11 bills, Exhibit D.

12      MS. WEATHERSBY: Exhibit D is evidence of a  
13 correct bill to the address. We will be seeking to  
14 have these admitted.

15      JUDGE RILEY:   That is re-marked as Exhibit 10.  
16 And for the record Exhibit C was re-marked as  
17 Exhibit 9.

18                       So, Exhibit 10, Mr. Walker, again.

19      MR. WALKER:    Exhibit D?

20      JUDGE RILEY:   Right.

21                       Any objection?

22                       I think the same document may be

1 included in your exhibits that were originally  
2 admitted.

3 Any objection, Mr. Walker?

4 MR. WALKER: No objection, sir.

5 JUDGE RILEY: All right.

6 And, then, we were going to --

7 MS. WEATHERSBY: We'll eliminate Exhibit E.

8 JUDGE RILEY: Exhibit E was not going to be --

9 MR. SCHMULT: Exhibit E is right next to --

10 JUDGE RILEY: Right.

11 And then, we can do Exhibit F, which  
12 is back to the billings for the first floor, front.  
13 And we'll mark that as Exhibit 11.

14 MS. WEATHERSBY: Which shows the previous  
15 balance down to the current balance.

16 JUDGE RILEY: Okay. My question is, Exhibit F  
17 is how many pages?

18 It's, actually, about seven different  
19 bills?

20 MS. WEATHERSBY: Yes, monthly bills.

21 JUDGE RILEY: Exhibit 10 was only one.

22 And, again, Mr. Walker, is there any

1 objection to what has been referred to as Exhibit F,  
2 but is now re-marked as Respondent's Exhibit 11?  
3 These are a series of bills, ranging from  
4 November 29th, 2004, through May 27, 2005, very  
5 recently.

6 MR. WALKER: No objection.

7 JUDGE RILEY: No objection. All right, then,  
8 Respondent's Exhibit 11 is admitted into evidence.

9 (Whereupon, Respondent's  
10 Exhibit 11 was admitted  
11 into evidence.)

12 JUDGE RILEY: The last order of business that I  
13 can say is, do the parties want to make closing  
14 remarks, or do they want to submit closing briefs?

15 MS. WEATHERSBY: I'd rather just make closing  
16 remarks.

17 JUDGE RILEY: Mr. Walker, what's your  
18 preference?

19 MR. WALKER: A written brief.

20 JUDGE RILEY: You want to submit a written  
21 brief?

22 MR. WALKER: Just remarks, sir.

1 JUDGE RILEY: Just remarks?

2 MR. WALKER: Yes.

3 MS. WEATHERSBY: I can go either way. Whatever  
4 is to Mr. Walker's convenience.

5 MR. WALKER: Yes. I go along with a response.

6 JUDGE RILEY: Okay. Make any remarks that you  
7 want with regards to your case, you're free to do so  
8 now.

9 MR. WALKER: Yes. My dispute is for the  
10 overcharges and was questions that were answer here  
11 on some charges that were overcharges as we have  
12 went through these profiles here, marked as  
13 exhibits, 2001 to the present moment now. But,  
14 during that period of time the charges have  
15 cumulated, sir, especially when they have turned the  
16 gas off and said that gas was flowing in the  
17 apartment -- or in the premises at that time, and  
18 then they create a bill or either account number is  
19 changed to create a bill to show that the bill was  
20 Occupant.

21 See, that shows you that that service  
22 are charged from that period of time that I did not

1 receive services that they estimated charges there.

2 JUDGE RILEY: All right.

3 MR. WALKER: But when they estimate a charge  
4 over the normal uses I use per month in gas. I  
5 don't have any washer or a dryer. All I have is gas  
6 and sometime cook on the stove there.

7 Now, these charges where they are  
8 charging me way more than the services, like using a  
9 dryer, a dryer to dry clothes, or a washer to wash  
10 clothes, services for it. Understand sometime a  
11 leak on the outside, something like that -- those  
12 are new meters that I have placed down there.  
13 That's why I'm looking at the charge here. That's  
14 why I filed those complaints because I looked at the  
15 time where I was being overcharged 200, 300, 400 or  
16 100, estimated charges.

17 See, when they process the Occupant  
18 bill, it's more than \$100 than the normal cost --  
19 actual cost would be. Even if they had a reading  
20 here on the print here, meter reader per month, here  
21 (indicating), you can see the gap in those meter  
22 readers per month. These are more estimated

1 charges, sir.

2                   Then, to -- the normal balance at one  
3 time, it was low, very minimum, cumulates and it  
4 carries onto the next bill, sir. Those are the  
5 reasons why I raise questions like that. What was  
6 the reason? What was the purpose for it?

7                   Now, when they change the account  
8 number over to a different account number, and come  
9 over Occupant bill, that's when the overcharges were  
10 set in and cumulated more than I could pay. More  
11 than I could pay.

12       JUDGE RILEY: Counsel, this is highly irregular,  
13 but it's something I need to do. I've got to recall  
14 your witness because there was something that I  
15 forgot to ask, one last point of clarification.

16       MS. WEATHERSBY: No objection.

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1                               BRIAN SCHMULT,  
2   recalled as a witness herein, and after having been  
3   previously sworn, was examined and testified as  
4   follows:

5                               FURTHER EXAMINATION

6                               BY

7                               JUDGE RILEY:

8       Q     Mr. Schmult, when the company realized that  
9   the disconnection by the use of a buffalo box had  
10  not shut off the gas properly, why didn't the  
11  company go back out when they realized the gas was  
12  still flowing and simply attempt to shut it off  
13  again? Why did they just go back to billing  
14  Occupant and, then, billing Mr. Walker?

15      A     That, I can't answer for 100 percent sure.  
16  But, looking at what happened previously, he had  
17  brought his previous balance, prior to the Occupant,  
18  down enough where we said, you know, it's still the  
19  wintertime, we'll leave the gas on for him. And at  
20  that time we didn't shut off the gas because a lot  
21  of things happened.

22      Q     And made no attempt to further shut off the

1 gas, then.

2 A Right.

3 Q There was no attempt to block off the meter  
4 or anything like that.

5 A No.

6 Q All right. So, it was more like a policy  
7 decision just to let it go?

8 A Just to let it go for now. Yes.

9 JUDGE RILEY: That's all I have.

10 Counsel?

11 MS. WEATHERSBY: Redirect, quickly.

12 JUDGE RILEY: Okay.

13 FURTHER REDIRECT EXAMINATION

14 BY

15 MS. WEATHERSBY:

16 Q And, once again, then, when this would have  
17 been shut off, it was already in the winter season  
18 and so when the company would have taken those van  
19 readings, some of those readings were in the winter  
20 months.

21 A Correct.

22 Q And, typically, if it's a mult-unit

1 building, there's, typically, a moratorium on  
2 shutoffs, correct?

3 A For residential customers. Yes.

4 Q And would Mr. Walker be a residential  
5 customer?

6 A Yes.

7 Q But, come spring or summer, that's when the  
8 turnoffs begin to occur more aggressively, is that  
9 correct?

10 A Yes.

11 Q And, once again, he had paid down the  
12 balance from 900 and left it to a remaining balance  
13 of 258.

14 A Correct.

15 MS. WEATHERSBY: No further questions.

16 JUDGE RILEY: Mr. Walker, did you have any  
17 questions for Mr. Schmolt based upon this last  
18 exchange?

19 MR. WALKER: No. No questions. Thank you.

20 JUDGE RILEY: And did you have any further  
21 closing remarks to make?

22 MR. WALKER: Well, that was my purpose for me

1 filing that injunction, sir, or grievance, sir, with  
2 the ICC.

3 JUDGE RILEY: It was a complaint is what you  
4 filed, right?

5 MR. WALKER: Yeah. That's the reason why I  
6 filed the complaint, because cumulating overcharges.  
7 That was my main purpose, the overcharges. If I can  
8 get a resolution on the overcharges, that's my  
9 purpose of filing.

10 JUDGE RILEY: Okay. That was your purpose for  
11 filing.

12 MR. WALKER: For filing it, sir.

13 JUDGE RILEY: Okay.

14 Ms. Weathersby, anything in closing?

15 MS. WEATHERSBY: Yes.

16 Once again, we believe that the  
17 evidence has shown that Mr. Walker was not  
18 overcharged. The entire time he lived there he has  
19 been billed for -- was based upon actual readings,  
20 gas flowed through the meter. He has admitted that  
21 he had a cooking and heating account. He has  
22 admitted that during that gas or occupant period, he

1 had heat all the way along. Those were his words.

2 He has also admitted that at all times he made

3 partial payments.

4                   If we use just simple math here, if  
5 his gross bill is 200 and he's making a payment of  
6 75 or \$80, he's accumulating a monthly unpaid amount  
7 of, approximately, \$200, if you add that up.

8                   Also, speaking to Mr. Walker's claim  
9 of overcharges, if you look at Peoples Gas'  
10 transcript, which was marked as an additional  
11 exhibit, Respondent's Exhibit 8, I believe, it will  
12 show you that the meter readings difference, long  
13 before he was disconnected, was, approximately, 172  
14 feet of gas a month, 238, 246, one month it was 322  
15 cubic feet of gas. That was during the month of  
16 October through November.

17                   So, if you look at that time period of  
18 the gap, I did some simple math here, and it looks  
19 like it was, approximately, 262 feet of gas per  
20 month. We don't know what it was actually. But I'm  
21 saying, if you look at those numbers, those numbers  
22 are not out of line with his previous usage. So, we

1 have the rebuttal of his comment that it was more  
2 gas that was used. No, it was consistent with the  
3 amount. There were actual readings. He was billed  
4 within a one-year period. Peoples' transcript shows  
5 that we reflected each of his payments. His  
6 payments were not enough to retire the bills.

7                   You have the first period, the  
8 remaining bill of 258. You have the second period,  
9 which is the occupant period, where he admits he was  
10 there, that his heat was on. That was about a  
11 thousand dollars, which included the winter months.  
12 And, then, you have the third period, which was from  
13 the time he filed -- got his new account on, down to  
14 the present. And as our -- Peoples' records show,  
15 in the last exhibit, that Mr. Walker still owes  
16 \$1400 that's not in dispute. So, we're right back  
17 in the same situation.

18                   So, we have the current dispute under  
19 this action number, where he owes Peoples,  
20 approximately, like, \$3600. And you have the amount  
21 that's accrued from the time he filed the complaint  
22 to the present.

1                   Mr. Walker cannot create his own  
2 budget plan. He cannot -- I understand if he can't  
3 make the full bill (sic), but the Commission rules  
4 allow us to disconnect if an account is past due.  
5 And we have carried this account for a very long  
6 time. \$80 against a \$3000 balance is not  
7 sufficient.

8                   So, with that said, we're hoping that  
9 the Commission will review this record and find that  
10 we read the meter, we billed him properly, and the  
11 account was subject to disconnection. It was  
12 disconnected. The disconnection was not complete.  
13 However, gas was still used. We billed him for it  
14 on a timely basis. And Peoples is simply looking to  
15 be paid the past due balance. The numbers don't add  
16 up. The payments do not equal the amount of gas  
17 that was used.

18                   Thank you.

19           JUDGE RILEY: Thank you very much.

20                   Mr. Walker, as the complainant, you're  
21 entitled to one more --

22           MR. WALKER: Yes. I appreciate Peoples Gas here

1 for going along with the payments here. But, also,  
2 there still some errors that were made by Peoples  
3 Gas and cumulated charges there. You people want  
4 someone to pay for something that was accumulated  
5 over a period of time on estimated costs. A lot of  
6 people, I understand, pay sometimes on those  
7 charges. But, then, too, we look at the fact that  
8 what you have said that they are aderate (sic).  
9 Aderate records are used by --

10 THE REPORTER: What kind of records?

11 MR. WALKER: Are these records here computer  
12 made out records?

13 JUDGE RILEY: I'm sorry. Mr. Walker, this is  
14 just for closing remarks. We can't ask any more  
15 questions.

16 When you kept referring to some kind  
17 of records --

18 MR. WALKER: Records that are aderate, sir,  
19 aderate. Records that are correct of the date  
20 current.

21 JUDGE RILEY: Okay. Accurate?

22 MR. WALKER: Records, yes. Aderate, accurate,

1 yes, same thing. Yes.

2 Those are adequate records, sir.

3 Monthly records are adequate, but still have  
4 questions and doubts on most of those records there,  
5 especially during the meter reading portion there,  
6 sir. When you say "estimation," that means not a  
7 full correct account. It's estimated account.

8 JUDGE RILEY: All right. Thank you, Mr. Walker.

9 That concludes all the testimony and  
10 closing remarks. The procedure now is for me to  
11 reread this transcript, include the evidence in a  
12 summary to the Commission. I'll resubmit the order  
13 to the Commission -- strike that. I will resubmit a  
14 proposed order to the parties, and will wait for  
15 exceptions from whoever deems it necessary to file  
16 them, after which I will take a postexceptions  
17 proposed order to the Commission.

18 So, I will endeavor to get that  
19 proposed order to the parties just as soon as I can  
20 get my hands on the transcript.

21 That being said, I will direct the  
22 court reporter to, again, mark this matter heard and

1 taken.

2 Thank you.

3 MS. WEATHERSBY: Thank you.

4 MR. WALKER: Thank you.

5 HEARD AND TAKEN

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